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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-204106, B-204382 **DATE:** January 4, 1982

**MATTER OF:** Integrated Forest Management, Inc.

**DIGEST:**

Protests alleging that solicitations requiring aerial application of herbicide by helicopter unduly restrict competition because the work can be done manually at a cost savings to the Government are denied. The protester has not shown that the performance method chosen by the contracting agency is not reasonably related to the agency's stated need to control competing plant growth in order to promote the growth of Douglas-fir trees, and the agency's determination was made in accordance with pertinent statutory and regulatory requirements.

Integrated Forest Management, Inc. (IFM), protests the award of two contracts for mixing and aerial application of herbicide by helicopter under invitations for bids (IFB) Nos. R5-10-81-39 (IFB-39) and R5-10-81-80 (IFB-80) issued by the Forest Service, Six Rivers National Forest.

The protester essentially contends that the solicitations' requirement for aerial application of herbicide is unduly restrictive of competition because competing plant growth can be cut manually without using herbicide at a cost savings to the Government. IFM asserts that this requirement precludes local manual contractors from competing for these contracts, in violation of Federal environmental and procurement laws and regulations, and that they are limited to competing under solicitations which permit the manual method, but allegedly require more stringent inspection standards than those imposed on aerial contractors.

We deny the protests.

The Forest Service received two bids in response to IFB-39 for the Gasquet Ranger District and made award to Reforestation Services, Inc., the low bidder

at \$44.95 per acre. The contracting agency received three responses to IFB-80, one of which was a "no bid," and awarded a contract for the Orleans Ranger District to Evergreen Helicopters, Inc., at its low bid price of \$51.61 per acre.

The IFBs, set aside for labor surplus area concerns, state that the purpose of these contracts is to secure the uniform application by helicopter of herbicides to control certain plant growth and to promote Douglas-fir development on a wide variety of forest land.

The Forest Service states that the environmental assessment for the project considered four alternatives: aerial and ground application of herbicide, hand cutting and no action. See 36 C.F.R. § 219.5 (1980). The contracting agency determined that aerial application of herbicide was the preferred alternative based on the criteria list in the environmental assessment, in accordance with the rules and regulations set forth in the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. §§ 4321, et seq. (1976). The Forest Service determined that aerial application of herbicide is the most effective method for these districts because the environmental assessment states that it has wider spread, longer lasting effect in eliminating competing hardwood species and reducing regrowth than alternative methods which do not use herbicides.

Contrary to IFM's contentions, the agency argues that the IFB specifications comply with the Federal Procurement Regulations (FPR) for labor-surplus area set-asides and with environmental regulations, and that IFM certainly may bid in response to the solicitations. The Forest Service contends that IFM's bid of \$225 per acre for the manual method on IFB No. R5-10-80-59 demonstrates that that method does not result in a cost savings to the Government, as the protester asserts. The contracting agency further states that the IFB does provide that the Forest Service will inspect areas being treated under these contracts by oil sensitive cards or other means, that aerial contractors are required to meet performance standards, and that it would be illogical to require the same inspection procedures for different methods of performance. The agency concludes that IFM's protests are actually directed against the agency's

forest management policies which are determined under the agency's responsibility for managing Federal forest lands. The Forest Service also suggests that these contentions should have been raised with respect to the environmental assessment report, but are not pertinent to the terms of these solicitations.

Procurement agencies are required, pursuant to FPR § 1.1.301-1 (1964 ed. amend. 83), to state specifications in terms which will encourage maximum competition and still satisfy the agency's actual minimum needs. We have, however, consistently recognized that a contracting agency is to be accorded broad discretion in determining its needs because Government procurement officials are in the best position to know the agency's actual needs and to draft appropriate specifications. D&S Word Processing Systems, B-194247, June 25, 1979, 79-1 CPD 451. Therefore, when a protester challenges a specification as unduly restrictive of competition, the agency must establish that the restrictions imposed are reasonably related to its needs, but the protester retains the burden of showing that the requirements complained of are clearly unreasonable. Oshkosh Truck Corporation, B-198521, July 24, 1980, 80-2 CPD 161.

IFM has not met its burden of proof. The Forest Service determined, in accordance with the NEPA and implementing agency regulations, that aerial application of herbicide by helicopter was the most effective method for the districts concerned. That determination is reasonably related to the agency's stated need to obtain maximum control over competing plant growth in order to promote growth of the fir trees, set forth in the solicitations. Although IFM obviously disagrees with the method selected by the agency, we have held that a protester's disagreement with the agency's opinion does not invalidate that opinion. Carolina Concrete Pipe Company, B-192361, March 4, 1981, 81-1 CPD 162; Tyco, B-194763, B-195072, August 16, 1979, 79-2 CPD 126. Similarly, we have held that the contracting agency's responsibility for determining its actual needs includes the determination of the inspection and testing requirements requisite to assure that a product or service does in fact meet those needs. Sparklet Devices, Inc., 60 Comp. Gen. \_\_\_\_ (B-199690, June 4, 1981), 81-1 CPD 446.

Based on our review of the record, we find no reason to object to either the solicitations or the awards and deny the protests.

*Harry R. Can Cline*  
For the Comptroller General  
of the United States